

# ReedSmith

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August 13, 2021

## Via ECF

Honorable Ona T. Wang  
United States Magistrate Judge  
U.S. District Court Southern District of New York  
500 Pearl Street  
New York, New York 10007

MEMO ENDORSED.  
  
Aug 17, 2021

Re: *BSG Resources Guinea Limited et al. (BSGR) v. George Soros et al.*, No. 1:17-cv-02726 (JFK) (OTW)

Dear Judge Wang:

As counsel for Plaintiffs, we write respectfully to report to the Court that, despite their best efforts to do so, Plaintiffs are as of now unable to comply fully with that portion of the order entered on August 5 directing Plaintiffs "to produce all responsive documents listed on ECF 260-1 by Friday, August 13, 2021" (ECF 269). We therefore seek an extension of 30 days in the hopes of being able to comply fully by then.

DENIED/  
OTO  
8/17/21

As an initial matter, Plaintiffs would like to inform the Court that they produced the Pentler Exhibits (lines 2 and 3 from ECF 260-1) on July 23 and as directed by the Court at the July 22 hearing. However, as noted at that hearing and as previously explained to the Court, due to funding issues beyond their control, the Joint Administrators temporarily cannot access and produce the remaining ECF 260-1 documents (ECF 236, 252-4), which are in the hands of a third party. Plaintiffs have provided the Court with unrebutted evidence (in the form of declarations from one of the Joint Administrators) explaining this, including that the Joint Administrators "do not have, and have not had, ready access to funds to pay for this litigation. Rather, all costs for this litigation have required approval from one of a few sources of funding" (ECF 236 ¶ 5). The Joint Administrators are continuing to seek funding to resolve the Legility payment issues. As recently as last week, they have written to various stakeholders seeking funding for the Legility costs. But, those efforts have not been successful so far. Thus, the Joint Administrators cannot produce the remaining ECF 260-1 documents now because of circumstances beyond their control. The Joint Administrators are continuing their efforts and will report to the Court and Defendants if anything changes.

We note here that Defendants in their August 3 letter (to which Plaintiffs did not have an opportunity to respond) focused on a statement in the Legility letter that the Joint Administrators had told them (in a letter that was NOT attached to the August 2 letter Legility sent to us) that the invoices and ongoing costs were "expenses of the administration" (*id.*). But, contrary to Defendants' arguments, all this statement means is that Legility will have a priority claim (over certain other unsecured creditors) if and when assets or funding become available. This is completely consistent with the prior representations to this Court.

Defendants also baldly asserted in their August 3 letter that Plaintiffs can access and produce the

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remaining ECF 260-1 documents from the Company's books and records. Defendants do not indicate on what basis they have drawn that inference from the Legility letter or otherwise. We confirm that this is not correct. The Joint Administrators rely on the books and records that are available to them at the time of their appointment. These documents cannot be produced at this time for the reasons previously set out.

As we explained to Your Honor, nothing has prevented, or to our knowledge now prevents, Defendants from seeking the Legility documents pursuant to various processes available to Defendants. That they have not taken even one step on their own to secure these documents is itself a compelling reason for Your Honor to grant BSGR another 30 days to try to secure the documents.

Respectfully,

A handwritten signature in black ink, appearing to read "Louis M. Solomon", is written over a horizontal line.

Louis M. Solomon

cc: Counsel of Record (via ECF)